

**Financially disabled.** The time periods for claiming a refund are suspended for the period in which you are financially disabled. For a joint income tax return, only one spouse has to be financially disabled for the time period to be suspended. You are financially disabled if you are unable to manage your financial affairs because of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. However, you are not treated as financially disabled during any period your spouse or any other person is authorized to act on your behalf in financial matters.

To claim that you are financially disabled, you must send in the following written statements with your claim for refund.

1. A statement from your qualified physician that includes:
  - a. The name and a description of your physical or mental impairment,
  - b. The physician's medical opinion that the impairment prevented you from managing your financial affairs,
  - c. The physician's medical opinion that the impairment was or can be expected to result in death, or that its duration has lasted, or can be expected to last, at least 12 months,
  - d. The specific time period (to the best of the physician's knowledge), and
  - e. The following certification signed by the physician: "I hereby certify that, to the best of my knowledge and belief, the above representations are true, correct, and complete."
2. A statement made by the person signing the claim for credit or refund that no person, including your spouse, was authorized to act on your behalf in financial matters during the period of disability (or the exact dates that a person was authorized to act for you).

**Exceptions for special types of refunds.** If you file a claim for one of the items listed below, the dates and limits discussed earlier may not apply. These items, and where to get more information, are as follows.

- Bad debt. (See *Nonbusiness Bad Debts* in chapter 15.)
- Worthless security. (See *Worthless securities* in chapter 15.)
- Foreign tax paid or accrued. (See Publication 514, *Foreign Tax Credit for Individuals*.)
- Net operating loss carryback. (See Publication 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.)
- Carryback of certain business tax credits. (See Form 3800, *General Business Credit*.)
- Claim based on an agreement with the IRS extending the period for assessment of tax.

- Injured spouse claim. (See *Offset against debts*, under *Refunds*, earlier.)

**Processing claims for refund.** Claims are usually processed shortly after they are filed. Your claim may be accepted as filed, disallowed, or subject to examination. If a claim is examined, the procedures are the same as in the examination of a tax return.

If your claim is disallowed, you will receive an explanation of why it was disallowed.

**Taking your claim to court.** You can sue for a refund in court, but you must first file a timely claim with the IRS. If the IRS disallows your claim or does not act on your claim within 6 months after you file it, you can then take your claim to court. For information on the burden of proof in a court proceeding, see Publication 556.

The IRS provides a fast method to move your claim to court if:

- You are filing a claim for a credit or refund based solely on contested income tax or on estate tax or gift tax issues considered in your previously examined returns, and
- You want to take your case to court instead of appealing it within the IRS.

When you file your claim with the IRS, you get the fast method by requesting in writing that your claim be immediately rejected. A notice of claim disallowance will then be promptly sent to you.

You have 2 years from the date of mailing of the notice of disallowance to file a refund suit in the United States District Court having jurisdiction or in the United States Court of Federal Claims.

**Interest on refund.** If you receive a refund because of your amended return, interest will be paid on it from the due date of your original return or the date you filed your original return, whichever is later, to the date you filed the amended return. However, if the refund is not made within 45 days after you file the amended return, interest will be paid up to the date the refund is paid.

**Reduced refund.** Your refund may be reduced by an additional tax liability that has been assessed against you.

Also, your refund may be reduced by amounts you owe for past-due child support, debts to another federal agency, or for state tax. If your spouse owes these debts, see *Offset against debts*, under *Refunds*, earlier, for the correct refund procedures to follow.

**Effect on state tax liability.** If your return is changed for any reason, it may affect your state income tax liability. This includes changes made as a result of an examination of your return by the IRS. Contact your state tax agency for more information.

## Penalties

The law provides penalties for failure to file returns or pay taxes as required.

### Civil Penalties

If you do not file your return and pay your tax by the due date, you may have to pay a penalty.

You may also have to pay a penalty if you substantially understate your tax, file a frivolous return, or fail to supply your SSN or individual taxpayer identification number. If you provide fraudulent information on your return, you may have to pay a civil fraud penalty.

**Filing late.** If you do not file your return by the due date (including extensions), you may have to pay a failure-to-file penalty. The penalty is usually 5% for each month or part of a month that a return is late, but not more than 25%. The penalty is based on the tax not paid by the due date (without regard to extensions).

**Fraud.** If your failure to file is due to fraud, the penalty is 15% for each month or part of a month that your return is late, up to a maximum of 75%.

**Return over 60 days late.** If you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of \$100 or 100% of the unpaid tax.

**Exception.** You will not have to pay the penalty if you show that you failed to file on time because of reasonable cause and not because of willful neglect.

**Paying tax late.** You will have to pay a failure-to-pay penalty of  $\frac{1}{2}$  of 1% (.50%) of your unpaid taxes for each month, or part of a month, after the due date that the tax is not paid. This penalty does not apply during the automatic 4-month extension of time to file period if you paid at least 90% of your actual tax liability on or before the due date of your return and pay the balance when you file the return.

The monthly rate of the failure-to-pay penalty is half the usual rate (.25% instead of .50%) if an installment agreement is in effect for that month. You must have filed your return by the due date (including extensions) to qualify for this reduced penalty.

If a notice of intent to levy is issued, the rate will increase to 1% at the start of the first month beginning at least 10 days after the day that the notice is issued. If a notice and demand for immediate payment is issued, the rate will increase to 1% at the start of the first month beginning after the day that the notice and demand is issued.

This penalty cannot be more than 25% of your unpaid tax. You will not have to pay the penalty if you can show that you had a good reason for not paying your tax on time.

**Combined penalties.** If both the failure-to-file penalty and the failure-to-pay penalty (discussed earlier) apply in any month, the 5% (or 15%) failure-to-file penalty is reduced by the failure-to-pay penalty. However, if you file your return more than 60 days after the due date or extended due date, the minimum penalty is the smaller of \$100 or 100% of the unpaid tax.

**Accuracy-related penalty.** You may have to pay an accuracy-related penalty if you underpay your tax because:

1. You show negligence or disregard of the rules or regulations, or
2. You substantially understate your income tax.

The penalty is equal to 20% of the underpayment. The penalty will not be figured on any part